

Maine Revised Statutes
Title 36: TAXATION
Chapter 819: FRANCHISE TAX

§5206-D. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF).]

1. Affiliated group. "Affiliated group" means a group of 2 or more financial institutions in which more than 50% of the voting interest of each member financial institution is directly or indirectly owned by a common owner or owners, either corporate or noncorporate, or by one or more of the member financial institutions.

[1997, c. 746, §15 (AMD); 1997, c. 746, §24 (AFF) .]

2. Billing address. "Billing address" means the location indicated in the books and records of the taxpayer on the first day of the taxable year or on a later date in the taxable year when the customer relationship began as the address where any notice, statement or bill relating to a customer's account is mailed.

[1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF) .]

3. Borrower or credit card holder located in this State. "Borrower or credit card holder located in this State" means:

A. A borrower, other than a credit card holder, that is engaged in a trade or business that maintains commercial domicile in this State; or [1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF) .]

B. A borrower that is not engaged in a trade or business or a credit card holder whose billing address is in this State. [1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF).]

[1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF) .]

4. Commercial domicile. "Commercial domicile" means the place from which trade or business is principally managed and directed.

[1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF) .]

5. Compensation. "Compensation" means wages, salaries, commissions and any other form of remuneration paid to employees for personal services. "Compensation" includes amounts paid to an employee-leasing company for leased employees and amounts paid to a temporary services company for temporary employees, pursuant to a contract between the taxpayer and an employee-leasing company or temporary services company.

[2001, c. 439, Pt. D, §3 (AMD); 2001, c. 439, Pt. D, §9 (AFF) .]

6. Credit card. "Credit card" means a credit, travel or entertainment card.

[1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF) .]

7. Credit card issuer's reimbursement fee. "Credit card issuer's reimbursement fee" means the fee a taxpayer receives from a merchant's bank because one of the persons to whom the taxpayer has issued a credit card has charged merchandise or services to the credit card.

[1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF) .]

7-A. Employee-leasing company. "Employee-leasing company" means a business that contracts with client companies to supply workers to perform services for client companies, except that the term "employee-leasing company" does not include private employment agencies that provide workers to client companies on a temporary help basis.

[2001, c. 439, Pt. D, §4 (NEW); 2001, c. 439, Pt. D, §9 (AFF) .]

8. Financial institution. "Financial institution" means:

A. A financial institution authorized to do business in this State as defined in Title 9-B, section 131, subsection 17-A, including, without limitation, a trust company; [1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF) .]

B. A bank, savings bank, industrial bank, savings and loan association or any other entity, excluding a credit union authorized to do business in this State as defined in Title 9-B, section 131, subsection 12-A, that accepts deposits that are insured by an agency of the Federal Government; [1999, c. 414, §42 (AMD) .]

C. A bank holding company, as defined in the federal Bank Holding Company Act of 1956, 12 United States Code, Section 1841, or a savings and loan holding company, as defined in 12 United States Code, Section 1467a(a)(1)(D); or [1999, c. 708, §42 (AMD) .]

D. A corporation or other entity more than 50% of the voting interest of which is owned, directly or indirectly, by any one or more of the organizations defined in this subsection or by a credit union authorized to do business in this State as defined in Title 9-B, section 131, subsection 12-A. [1997, c. 746, §16 (AMD); 1997, c. 746, §24 (AFF) .]

[1999, c. 708, §42 (AMD) .]

8-A. Leased employee. "Leased employee" means an individual who performs services for a client company pursuant to a contract between the client company and an employee-leasing company.

[2001, c. 439, Pt. D, §4 (NEW); 2001, c. 439, Pt. D, §9 (AFF) .]

9. Loan. "Loan" means any extension of credit resulting from direct negotiations between the taxpayer and its customer, or the purchase, in whole or in part, of the extension of credit from another. "Loan" includes participations, syndications and leases treated as loans for federal income tax purposes. "Loan" does not include properties treated as loans under the Code, Section 595 as of December 31, 1995; futures or forward contracts; options; notional principal contracts such as swaps; credit card receivables, including purchased credit card relationships; noninterest-bearing balances due from depository institutions; cash items in the process of collection; federal funds sold; securities purchased under agreements to resell; assets held in a trading account; securities; interests in a REMIC or other mortgage-backed or asset-backed security; and other similar items.

[2005, c. 618, §9 (AMD) .]

10. Loan secured by real property. "Loan secured by real property" means that 50% or more of the aggregate value of the collateral used to secure a loan or other obligation, when valued at fair market value as of the time the original loan or obligation was incurred, was real property.

[1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF) .]

11. Located in the State. For purposes of the receipts factor in section 5206-E, subsection 2, "located in the State":

A. In reference to a loan that is secured by real property, means that more than 50% of the fair market value of the real property is located within this State or, if more than 50% of the fair market value of the real property is not located within any one state, that the borrower is located in this State; [1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF).]

B. In reference to a loan that is not secured by real property, means that the borrower is located in this State; [1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF).]

C. In reference to a credit card receivable, means that the credit card holder is located in this State; or [1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF).]

D. In reference to real and tangible personal property, means that it is physically present in this State, except that transportation property is located within this State to the extent that the property is used in this State. The extent an aircraft is considered to be used in the State is determined by computing a fraction, the numerator of which is the number of landings of the aircraft in this State and the denominator of which is the total number of landings of the aircraft within and outside of the State. If the extent of the use of any transportation property within this State can not be determined, the property is considered to be used wholly in the state in which the property has its principal base of operations. A motor vehicle is considered to be used wholly in the state in which it is registered. [1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF).]

[1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF) .]

12. Maine assets. "Maine assets" means a financial institution's total end-of-year assets required to be reported pursuant to the laws of the United States on Internal Revenue Service Form 1120, 1120S, 1065 or any other Internal Revenue Service form used to report end-of-year assets or, in the case of an entity with a single owner that may be disregarded as an entity separate from its owner pursuant to Internal Revenue Service regulations, the financial institution's total end-of-year assets determined as if the entity were required to file Internal Revenue Service Form 1065, multiplied by the fraction obtained pursuant to section 5206-E. In the case of a financial institution that is a qualified subchapter S subsidiary as defined by the Code, Section 1361, the financial institution's "Maine assets" means total end-of-year assets determined as if the entity were required to file Internal Revenue Service Form 1120S, multiplied by the fraction obtained pursuant to section 5206-E.

[1999, c. 414, §43 (AMD); 1999, c. 414, §57 (AFF) .]

13. Maine net income. "Maine net income" means, for any taxable year, a financial institution's net income or loss per books required to be reported pursuant to the laws of the United States on Internal Revenue Service Form 1120, 1120S, 1065 or any other Internal Revenue Service form used to report net income or loss per books or, in the case of an entity with a single owner that may be disregarded as an entity separate from its owner pursuant to Internal Revenue Service regulations, the financial institution's net income or loss per books determined as if the entity were required to file Internal Revenue Service Form 1065, and apportioned to this State under section 5206-E. In the case of a financial institution that is a qualified subchapter S subsidiary as defined by the Code, Section 1361, the financial institution's "Maine net income" means a financial institution's net income or loss per books determined as if the entity were required to file Internal Revenue Service Form 1120S and apportioned to this State under section 5206-E.

To the extent that a financial institution derives income from a unitary business carried on by 2 or more members of an affiliated group, "Maine net income" is determined by apportioning, in accordance with section 5206-E, that part of the net income of the entire group that derives from the unitary business.

[1999, c. 414, §43 (AMD); 1999, c. 414, §57 (AFF) .]

14. Merchant discount. "Merchant discount" means the fee or negotiated discount charged to a merchant by the taxpayer for privilege of participating in a program when a credit card is accepted in payment for merchandise or services sold to the card holder.

[1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF) .]

15. Participation. "Participation" means an extension of credit in which an undivided ownership interest is held on a pro rata basis in a single loan or pool of loans and related collateral. In a loan participation, the credit originator initially makes the loan and then subsequently resells all or a portion of it to other lenders. The participation may or may not be known to the borrower.

[1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF) .]

16. Principal base of operations. With respect to transportation property, "principal base of operations" means the place of more or less permanent nature from which the property is regulated, directed or controlled. With respect to an employee, the "principal base of operations" means the place of more or less permanent nature from which the employee regularly starts the employee's work and to which the employee customarily returns in order to receive instructions from an employer, communicates with the employer's customers or other persons or performs any other functions necessary to the exercise of the employee's trade or profession.

[1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF) .]

17. Regular place of business. "Regular place of business" means an office at which the taxpayer carries on its business in a regular and systematic manner and that is continuously maintained, occupied and used by employees of the taxpayer.

[1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF) .]

18. State. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States or any foreign country.

[1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF) .]

19. Syndication. "Syndication" means an extension of credit in which 2 or more persons fund that credit and each person is at risk only up to a specified percentage of the total extension of credit or up to a specified dollar amount.

[1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF) .]

20. Taxpayer. "Taxpayer" means a financial institution as defined in subsection 8.

[1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF) .]

20-A. Temporary help. "Temporary help" means employee services provided to client companies for a contractual period of less than 12 months.

[2001, c. 439, Pt. D, §4 (NEW); 2001, c. 439, Pt. D, §9 (AFF) .]

20-B. Temporary services company. "Temporary services company" means a private employment agency, other than an employee-leasing company, that provides workers to client companies on a temporary help basis.

[2001, c. 439, Pt. D, §4 (NEW); 2001, c. 439, Pt. D, §9 (AFF) .]

21. Transportation property. "Transportation property" means vehicles and vessels capable of moving under their own power, such as aircraft, trains, water vessels and motor vehicles, as well as any equipment or containers attached to those vehicles and vessels, such as rolling stock, barges or trailers.

[1997, c. 404, §5 (NEW); 1997, c. 404, §10 (AFF) .]

22. Unitary business. "Unitary business" means a business activity that is characterized by unity of ownership, functional integration, centralization of management and economies of scale.

[1999, c. 414, §44 (AMD) .]

SECTION HISTORY

1997, c. 404, §5 (NEW). 1997, c. 404, §10 (AFF). 1997, c. 746, §§15-17 (AMD). 1997, c. 746, §24 (AFF). 1999, c. 414, §§42-44 (AMD). 1999, c. 414, §57 (AFF). 1999, c. 708, §42 (AMD). 2001, c. 439, §§D3,4 (AMD). 2001, c. 439, §D9 (AFF). 2005, c. 618, §9 (AMD).

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